

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JERRY PHILLIPS

Plaintiff,

vs

6:06-CV-1294
(DNH/GJD)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

JERRY PHILLIPS
Plaintiff, pro se
206 Bunker Hill Rd.
Mayfield, NY 12117

COMMISSIONER OF SOCIAL SECURITY
Social Security Administration
Office of Regional General Counsel
Region II
26 Federal Plaza - Room 3904
New York, NY 10278

OF COUNSEL:

JENNIFER S. ROSA, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff brought this action seeking judicial review of a determination of the Commissioner of Social Security finding that he was not disabled within the meaning of the Social Security Act. By Report and Recommendation dated January 28, 2009, the Honorable Gustave J. DiBianco, United States Magistrate Judge, recommended that the defendant's motion for judgment on the pleadings be granted, the Commissioner's finding of

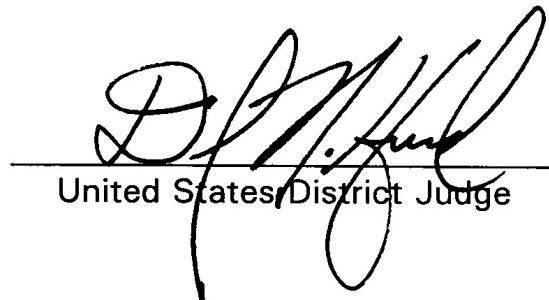
no disability be affirmed, and plaintiff's complaint be dismissed in its entirety. No objections were filed.

Based upon a careful review of entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. The defendant's motion for judgment on the pleadings is GRANTED;
2. The Commissioner's finding of no disability is AFFIRMED;
3. Plaintiff's complaint is DISMISSED in its entirety; and
4. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

A handwritten signature in black ink, appearing to read "D.N.H.", is written over a horizontal line. Below the line, the text "United States District Judge" is printed in a standard font.

Dated: February 23, 2009

Utica, New York.